HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Finance

FINA • NUMBER 153 • 1st SESSION • 42nd PARLIAMENT

EVIDENCE

Tuesday, May 8, 2018

Chair

The Honourable Wayne Easter

Standing Committee on Finance

Tuesday, May 8, 2018

● (1535)

[*English*]

The Chair (Hon. Wayne Easter (Malpeque, Lib.)): I believe we have all of our witnesses in place, so I'll call the meeting to order.

By video conference, we have John Callaghan and Aaron Denhartog; Nicholas Bala and Pierre Fogal. Thank you, gentlemen, and thank you to all the witnesses.

We are continuing our hearings on Bill C-74, the budget implementation act, based on the budget tabled on February 27, 2018, and other measures. We will also be hearing from witnesses at a session this afternoon.

We'll start with you, Professor Bala, from the faculty of law at Queen's University.

Professor Nicholas Bala (Professor of Law, Faculty of Law, Queen's University, As an Individual): Thank you very much. It's a privilege to be here to address the question of the increase in the number of unified family court judges in Canada to 75.

I am a law professor at Queen's University. I've worked in the family justice field for 40 years as a lawyer, researcher, and teacher. I'm here in an individual capacity, but I've also been involved with the Canadian Bar Association and the Association of Family and Conciliation Courts, Ontario Chapter, which are all supportive of the increase in the number of unified family court judges and, indeed, the expansion of the unified family court.

I am from Ontario, but I have also spoken, recently, to family justice professionals in Nova Scotia, Alberta, and Newfoundland and Labrador. I believe there is broad support in those jurisdictions, as well, for the expansion of the unified family court.

Having unified family courts will be both a more efficient way of delivering justice, and deliver better justice to families and children. It would also fulfill the mandate letter—or a portion of the mandate letter—that was given to the Minister of Justice at the start of her term.

As many of you probably realize, there is an ongoing crisis in family justice in Canada. There are enormous complaints about access to family justice, and concerns about the quality of family justice. Expanding unified family courts will help address that issue.

The first unified family court in Canada was established in Hamilton in 1977, and a feature of the unified family court includes a comprehensive jurisdiction, having specialist judges, and having appropriate support services in place, including mediation and assessment, access to children's lawyers, and so on.

In particular, by having more judges and having appropriate legislation, it will be comprehensive family law legislation, which will reduce the cost that is now incurred in the case where there is concurrent jurisdiction. It will also eliminate one unnecessary level of appeal, which we now have in many provinces, including much of Ontario.

Having unified family courts recognizes that family law is a distinct area that needs a special approach to legal justice. It will, and does, have a distinctive mission, philosophy, and rules, but of course, it's also governed by the legal process and legislation.

In particular, having unified family courts will facilitate case management by specialist judges who know what they're doing. It will help parents and litigants focus on the needs of children, and will result in more settlements.

The process we'll be going through will involve some new appointments, of course. Some of them will be people who are now in the provincial courts in various provinces, who will become unified family court judges. There will also be some new judges. One of the things about moving some of the judges from the provincial court to the unified family court is there'll be some financial savings for the provinces. I understand there are commitments from Ontario, and I assume other provinces, that those costs savings will be plowed back into the family justice system, which badly needs additional services.

Having unified family courts, and expanding them is a very important step toward improving the quality and accessibility to family justice. There are, however, certain other things we need to see. One of the issues to be addressed, and I believe this should happen, is that unified family courts should have jurisdiction over criminal cases that raise family violence issues, the less serious ones, and also deal with youth justice. This is the way the original family court was established in Hamilton in 1977, and that should be a model elsewhere, although I know that's contentious.

There are certainly other issues in terms of funding. We need more funding for family justice services, and in particular, there's a federal responsibility for family legal aid.

There are other issues to be addressed in the federal area of jurisdiction. Most notably, the Divorce Act, which was enacted in 1986, is badly in need of reform. It should become more child-focused, and deal better with issues of domestic violence.

Thank you for your attention, and I will be pleased to answer questions.

The Chair: Thank you very much, Mr. Bala.

Some of the points you raised would probably have to go to the justice committee. We're basically looking at the financing side of it here. In any event, that will likely happen.

I wish to mention that we also have with us today, Marc-André Pigeon and Athana Mentzelopoulos from the Canadian Credit Union Association.

Ms. Mentzelopoulos.

● (1540)

Ms. Athana Mentzelopoulos (Vice-President, Government Relations, Canadian Credit Union Association): Thank you for the invitation to be here today.

Our association represents almost 260 credit unions and caisses populaires outside of Quebec. We serve over 5.6 million Canadians, contributing $6.5 billion to the country's GDP.

I think most of you are familiar with our sector. I do want to underline that credit unions are the only brick-and-mortar financial institutions in about 370 communities across Canada, providing an important alternative to big banks.

The regulatory burden remains an acute concern for credit unions. We have recent studies that show that small credit unions in Canada devote about five times more resources to regulatory compliance compared to their larger cousins.

In general, I'd like to make a statement about the fintech changes in Bill C-74. Our sector supports them, although we are reserving some judgment around the competitive impact.

However, I want to focus today on the proposed changes regarding banking terminology.

Our members were pleased with the commitment in budget 2018 to changes that allow credit unions to use generic banking terms, subject to disclosure. The commitment is, obviously, now reflected in the legislation.

The proposal would allow our members to continue to speak to Canadians about financial services in the language of financial services. We're grateful to members around this table and to the all-party parliamentary credit union caucus, amongst others, for the support in the campaign that we had earlier this year and last.

The caveat "subject to disclosure" is, we think, a signal that federal policy-makers have concerns about consumers' awareness of the regulatory structures surrounding all financial institutions, particularly due to the emergence and growth of unregulated financial institutions and the fintech sector in Canada.

We understand that federal policy-makers are looking for standardize practices about what information is shared with members and potential members regarding who regulates credit unions and who provides deposit insurance.

We are regulated, deposit-taking financial institutions. Our members remain concerned about the impact of extensive regulation on their ability to compete when such regulation doesn't contribute to the safety and soundness of the sector.

Provincial credit unions are incorporated, regulated, and insured at the provincial level. Regulatory authorities at the provincial level set credential standards and conduct reviews that are appropriate to co-operatively owned, deposit-taking institutions that have little exposure to international or foreign exchange markets.

We outperform other institutions in making high-quality loans. In fact, credit union losses have averaged less than half a per cent of total loans over the last two decades compared to our competitors. Provincial deposit insurance provides credit union members with protections equal to or greater than those available to bank depositors. Credit unions take extra steps to ensure that every dollar is protected.

The credit union system is committed to providing leadership in the area of consumer protection, and to ensuring that we continue to provide outstanding service. Our system puts the interests of its members first and foremost.

To this end, we are developing a national market code, or consumer code, that will support, advocate, and help to advance best practices. Our voluntary market code will ensure that Canadians understand the credit union difference, and they can be reassured of our commitment to transparency, integrity, and customer service. Among its many benefits, a voluntary code is the most effective way to ensure that consumers understand the regulatory and deposit-insurance framework of their credit union. In other words, it is our goal to meet the disclosure requirements through voluntary means.

There's ample evidence that voluntary codes are expedient, effective tools for ensuring consistent outcomes while also reducing jurisdictional challenges and cost. The Office of Consumer Affairs at Innovation, Science and Economic Development Canada has suggested that voluntary codes offer a number of benefits to consumers, as well as to government and business.

In closing, I would like to underline that I'm here to represent credit unions across the country that are asking for flexible use of generic banking terminology and for a reasonable approach to disclosure requirements.

Thank you.

The Chair: Thank you very much.

We'll turn now to the Canadian Health Coalition. Ms. Wilson is a national director there.

Welcome.

Ms. Amanda Wilson (National Director, Canadian Health Coalition): Good afternoon, and thank you for inviting the Canadian Health Coalition to speak today.

Founded in 1979, the Canadian Health Coalition is a public advocacy organization dedicated to the preservation and improvement of public health care. Our membership is comprised of national organizations representing health care workers, seniors, churches, anti-poverty groups, trade unions, as well as affiliated coalitions in 10 provinces and one territory.

We would like to share our perspective specifically on part 6 of Bill C-74, which proposes amendments "to allow Canada Health Transfer deductions to be reimbursed when provinces and territories have taken the steps necessary to eliminate extra-billing and user fees in the delivery of public health care."

The Canadian Health Coalition welcomes this amendment, but we also believe it is imperative that this action be taken alongside other activities to curb the increasing threat of private, for-profit health care in Canada.

At a time when private clinics and user fees are springing up across the country, the federal government needs to make use of all the tools at its disposal to protect the ethos of equitable care for all. This includes withholding health transfer payments to provinces and territories who fail to uphold the core principles of the Canada Health Act that health care should be publicly administered, comprehensive, universal, portable, and accessible. In addition to violating these fundamental principles, unlawful extra billing comes at the expense of patients in need and the public purse.

In research led by our provincial affiliate, the Ontario Health Coalition, 136 private surgery, diagnostic, and boutique physician clinics were surveyed across Canada, finding evidence that at least 65% are charging extra user fees. These put patients at impossible decisions to choose between their health and basic living costs, and patients at these clinics often feel they have no choice but to pay for medically unnecessary add-ons and upgrades.

Recent research by the Parkland Institute highlights the rise of private membership clinics in Alberta. Individuals pay a yearly fee to access both insured medical services alongside non-insured medical services such as dieticians and massage therapists. This has the effect of limiting access to those needed medical professionals to those who can pay rather than those who are in need.

While some of these activities operate within a grey area, others are explicitly allowed by provincial governments. Saskatchewan allows private MRIs to operate under a one-for-one scheme where private clinics are supposed to provide a free MRI to someone on the public waiting list for every paid MRI they perform. The Manitoba government has also expressed an interest in private MRIs, and two are currently under development.

Quebec has had longstanding issues with user fees. Following threats of a lawsuit by patient groups and health advocates, they recently passed legislation to curb these fees, but there are reports that some patients are still being charged illegal fees.

Finally, right now in British Columbia, there is a potentially precedent-setting case at the B.C. Supreme Court to determine whether a for-profit surgery clinic, which was found to engage in double billing, should be allowed to operate.

Despite all of these examples and others, the federal government has been reluctant to impose punitive action against provinces that are enabling the proliferation of extra billing. In the past 15 years, there have only been a few instances of payments being withheld for non-compliance. In at least one case, those payments were reimbursed following the introduction of new legislation.

The overwhelming majority of Canadians want the federal government to act in defence of public health care. A recent poll commissioned by the CHC found that 89% of respondents want the federal government to intervene in unlawful billing from private practices. While the federal government should penalize provinces that fail to comply, we also do not want Canadians and the health care system to bear the financial burden of these penalties.

This amendment provides a way to reward provinces and territories for taking positive action. However, this change is meaningless if the Minister of Health does not enforce the Canada Health Act in the first place or if the federal government is not making sufficient investments in our public health care system.

In closing, we urge the federal government to take a more proactive stance in protecting the ethos of equitable care for all through broader investments in public universal health care along with increased data collection and reporting.

If this amendment will encourage such action, then we most definitely welcome it.

Thank you.

● (1545)

The Chair: Thank you very much, Amanda.

Turning to the Law Society of Ontario, we have Mr. Denhartog and Mr. Callaghan.

I don't know, but is it a sign when we have the insurance brokers between the two of you?

Voices: Oh, oh!

Mr. John Callaghan (Chair, Government and Public Affairs Committee, Law Society of Ontario): Yes, we need the insurance brokers between us.

Thank you, Mr. Chair, and good afternoon to the committee.

My name is John Callaghan, and I'm a bencher of the Law Society of Ontario, where I serve as chair of the government and public affairs committee.

As most of you know, the Law Society regulates, licenses, and disciplines Ontario's more than 50,000 lawyers and more than 8,000 licensed paralegals. The Law Society has a duty to protect the public interest, to maintain and advance the cause of justice and the rule of law, and of course to facilitate access to justice.

Like Professor Bala before me, I too speak in favour of the increased funding that is going to the unified family court. Outside criminal law, investments in our country's courts rarely make headlines, but they should. No area of law affects Canadians more than family law. The 2018 federal budget took a big step to improving our family court system.

Last month's federal budget included $77.2 million over four years and then $20.8 million per year ongoing to support the expansion of the unified family courts, creating 39 new judicial positions in Alberta, Ontario, Nova Scotia, and Newfoundland and Labrador.

In Ontario, funding will support phase one of Ontario's plan to immediately expand unified family courts to Belleville, Picton, Pembroke, Kitchener, Welland, Simcoe, Cayuga, and St. Thomas. This is welcome news for a system many believe, as Professor Bala indicated, needs significant improvement.

Consider the statistics. In 2016, Ontario's family court branch in the Superior Court of Justice had nearly 50,000 new proceedings dealing with divorce, custody, and other family-related issues. The Ontario Court of Justice had nearly 19,000 cases related to family law including custody, adoption, and child protection between September 2016 and October 2017.

A survey commissioned by our Law Society found that 58% of respondents ranked finding ways to improve the family justice system as one of the most important initiatives to be addressed in our jurisdiction. Of course, as Professor Bala indicated, the result of our federal system and our division of responsibilities under our Constitution, is that family law issues must be resolved by provincial courts and federal courts. This results in families seeking redress from two separate courts.

For example, families seeking a divorce or a division of property need to appear before the Ontario Superior Court of Justice and its federally appointed judges. These very same families need to go to the Ontario Court of Justice for custody issues. One family breakdown; two courts.

This is a complex and confusing system, which adds unnecessary and additional financial and emotional toll to an already-taxed family unit. This is the fate of approximately 60% of all families dealing with family breakdown. One can only imagine the stress that goes on for self-represented litigants in this area, and of course, their number is only growing.

Ontario and other provinces started to address this issue years ago. I won't repeat, but as Professor Bala said, it began in 1977 in Hamilton where one judge in one court determined all legal issues in a family law dispute related to divorce, custody, child protection, and property matters.

Improvements were made over time, and in Ontario, 17 of the province's 50 Superior Court of Justice locations, or approximately 40% of the province, now have a unified family court. However, that leaves a significant gap for the rest of the province.

This new funding will allow the province of Ontario to expand to jurisdictions where court space and necessary resources are available. A second phase is proposed but awaits the province, which will need to build the necessary facilities.

For decades, expanding UFCs has been a goal of Ontario's legal community. With the funding amounts in the budget, more people will have access to a timely, effective, and responsive family justice system that contributes to less adversarial, more sustainable, and better outcomes for families and children.

As our treasurer once stated, it may not make headlines, but it sure is important.

● (1550)

I thank the committee for hearing us, and I'm happy to answer to answer questions at the appropriate time.

The Chair: Thank you very much.

We'll turn to the Canadian Network for Detection of Atmospheric Change with Mr. Fogal, who is appearing by video conference from Guelph, Ontario.

Welcome.

● (1555)

Mr. Pierre Fogal (Site Manager, Polar Environment Atmospheric Research Laboratory, Canadian Network for Detection of Atmospheric Change): Thank you, Mr. Chairman.

I'm Pierre Fogal, a senior research associate with the physics department at the University of Toronto, and I serve as site manager of the Polar Environment Atmospheric Research Laboratory—usually called PEARL. I'm talking to you today in reference to the Canadian High Arctic Research Station, but we have little specific knowledge of that, as it is an entirely new entity that has yet to take its place among the working research stations of the Canadian Arctic. However, as my experiences with PEARL may be of use, I will speak to those.

As you may know, PEARL is located in the High Arctic in the vicinity of the Eureka weather station at approximately 80° north, 86° west. This is accessible only by chartered aircraft or by yearly Canadian Coast Guard sealift. PEARL consists of three facilities: the PEARL Ridge Lab, the big red building often seen in photographs, is approximately 15 kilometres by road from Eureka; the Zero-Altitude PEARL Auxiliary Laboratory, which we call 0PAL, is located at the weather station; and the Surface and Atmospheric Flux, Irradiance, Radiation Extension Site—SAFIRE—is located approximately five kilometres east of the weather station near the Eureka airport.

The PEARL Ridge Lab was originally constructed for Environment Canada and operated as the Arctic Stratospheric Ozone Observatory from 1993 to 2002. At that point it was shuttered as part of cost-cutting measures. The Canadian Network for the Detection of Atmospheric Change, CANDAC, with Professor James Drummond as the principal investigator, reopened and renamed the facility in 2005, and we as CANDAC have operated it since that time, with the majority of funding coming from various federal government initiatives, such as the Canadian Foundation for Climate and Atmospheric Sciences, and later through the Canadian climate change and atmospheric research fund administered by the Natural Sciences and Engineering Research Council of Canada. Currently we are operating on a special 18-month extension of our NSERC funding, until September 2019, but beyond that the future is unknown.

There are many challenges to operating a High Arctic research station. The most obvious of these is dealing with the local conditions. Perhaps not as obvious are the long lead times built into virtually every decision. Much of that is driven by the sheer remoteness of stations like PEARL. There are no local sources for materiel, fuel, or food, not to mention scientific equipment. This is compounded by the transportation limitations imposed by the need to either fly goods in or to ship them via sea once per year. Any large item or collection of supplies travelling by sea will not arrive in Eureka until late August, the tail end of the outdoor working season. Flying supplies in can happen in a more immediate time frame, but at a significantly higher cost. Good planning and flexibility help, but timelines for large projects always seem to begin a year in arrears due simply to the difficulty in delivering materials to the Far North.

Inherent in the reality of long supply lines with a long-term timeline is the need for stable funding for periods that are longer than typical. Timelines in the Arctic are generally rather longer than would be required for similar activity in southern Canada. If construction work is required, then that is exacerbated by the very short season available. Thus, funding for ongoing projects needs to be sufficient to cover the realities of greater expense, expensive shipping, likely delays, and all of the other costs associated with working in very remote areas. If a project is anticipated to continue to exist, as in the case of both PEARL and CHARS, then the future funding sources must be known well in advance of the termination of current funding to permit for both proposals as needed and planning.

It is also the case that when dealing with operations in the Arctic, some flexibility in fiscal management can ease the repercussions of setbacks. If northern suppliers are to be used—and this is our preferred approach—then providers with known qualifications and Arctic experience are a significant benefit. Furthermore, there are decidedly fewer options to choose between, and the easing of financial management requirements recognizing that sometimes there is only one supplier, and placing greater weight on experience, would almost certainly yield a cost and time benefit.

In closing, I will note that CANDAC PEARL has been in operation now for 13 years, and throughout that time it has carried out successful programs of atmospheric science that have been recognized nationally and internationally. Additionally, our presence in Eureka is synergistic, allowing other groups in other disciplines to operate in Eureka far more easily than they might otherwise have, because they make use of our facilities or services. Further investment in scientific research and development in the Arctic would lead to similar returns.

● (1600)

I thank you for your time, and I am willing and available for questions as needed.

The Chair: Thank you very much, Mr. Fogal.

We will turn to the last witnesses, and then we'll go to questions. We have Peter Braid from the Insurance Brokers Association of Canada. Welcome.

Mr. Peter Braid (Chief Executive Officer, Insurance Brokers Association of Canada): Thank you very much, Mr. Chair.

Good afternoon, honourable members. I'm very pleased to be here today on behalf of the Insurance Brokers Association of Canada, or IBAC, to contribute to the public discussion on Bill C-74.

As a former member of the House of Commons, I appreciate the opportunity to attend committee from the new perspective this side of the table provides. I recall as well that only the best and the brightest from the House of Commons serve on the finance committee, and I note that I was never a member of this committee.

Some hon. members: Oh, oh!

Mr. Peter Braid: As many of you will know, IBAC is the national voice of property and casualty insurance brokers, advocating for the interests of both insurance brokers and consumers to the Government of Canada.

Brokers have a long history of providing customer service, non-biased insurance advice, while consistently demonstrating their strong commitment to consumer protection. Operating small businesses in virtually every city and town across Canada, brokers create employment and support the local economy. They are also community leaders who make a difference in their respective communities.

Let me begin by saying that IBAC welcomes the continuation of consumer protections in the budget bill. As members of the committee will know, Bill C-74 includes proposed amendments to the Bank Act that give greater flexibility for financial institutions to undertake fintech activities. IBAC is pleased that these changes specifically maintain the banks' existing restrictions on business powers, meaning that banks cannot carry on the business of insurance at the point of granting credit. As the government develops regulations for fintech it will be important to ensure that the historical separation between banking and insurance is preserved.

We must ensure that banks are not allowed to do through the back door what they are prohibited from doing through the front door with regard to retailing or making referrals in the insurance marketplace. We believe this will be accomplished by making it clear in the regulations that new fintech entities are subject to the same restrictions as banks. For the record, IBAC supports measures to modernize the federal financial sector framework through technology and innovation. Being from Waterloo, I know how important that is for the economy.

At the same time, the principle of protecting consumers is paramount for insurance brokers. That is why insurance ought not to be sold to consumers at the point of granting credit. This fundamental position has been upheld by successive governments with all-party support, and further expanded to include the online environment.

Bill C-74 explicitly states that new provisions in the area of fintech will continue to be subject to the banks' traditional restrictions on business powers and insurance. As you continue your deliberations it is critically important that these consumer protections are maintained. They serve the best interests of your constituents.

I would also like to take this opportunity to note that this committee has studied the issue of bank practices brought to light by the media, involving questionable sales activities. I followed these hearings closely and commend the committee for this important work. Your study noted the ever-expanding role banks play in consumers' lives, and underscored the important need to protect financial consumers and ensure they are not taken advantage of.

As you know, Canada's financial system is the envy of the world. The fact that our banks and insurance companies remained so solid during the financial crisis in 2008 demonstrates the importance of well-regulated and separated business powers. Now as financial sector players continue to innovate and bring new products to consumers, it will become more important than ever to ensure that our regulations continue to be effectively applied and enforced.

We look forward to this bill's eventual passage into law, and to continuing to work with the government to create a consumer-focused regulatory regime.

Thank you very much.

● (1605)

The Chair: Thank you, Peter.

We'll go to questions. We're dealing now with several sections of the bill at once, so we'll likely be jumping all over the place. If anybody has additional comments to make when a question goes to somebody else, just raise your hand and I'll let you in.

We'll turn first to Mr. Fergus, for a seven-minute round.

Mr. Greg Fergus (Hull—Aylmer, Lib.): Thank you Chair, and thank you to all of our invited guests for coming today.

[*Translation*]

Thank you very much for your presentation. I'm very pleased to be able to ask some questions.

[*English*]

My questions are going to focus largely on the unified family courts. Forgive me as I focus on those.

My question could be to either or both Mr. Callaghan and Mr. Bala. It's in regard to the need for self-represented litigants in family law proceedings. People feel the need for, but just don't have access to, legal representation. It's not cheap to have a lawyer help them out in the court system and to deal with the complexity of the courts, and so we are seeing a rise in self-represented litigants.

How do you feel these unified family courts will reduce the incidence of self-represented litigants?

Mr. John Callaghan: I'll hop in there before Professor Bala, who I know will have insightful comments as well.

The reality of the unified family court is that first, it's one-stop shopping. It allows for the litigant, self-represented or otherwise, to go to one court. Second, what has happened, and Professor Bala can probably speak in more detail, is that over the years a specialization has developed, and not just in the courtroom. They are providing family services, information sessions, and mediation. The long-term idea is to have a more holistic situation.

Your underlying premise, of course, is that legal services are prohibitive to the average Canadian and that legal aid just doesn't reach it. Part of the challenge we're going to have, which is not going to be resolved in a day and which this will not solve, is to streamline family law services and make them more accessible and easier to deal with.

These are very contentious and emotional issues, and that goal may not be entirely possible in every case. It probably falls more to the provinces, though also the federal government, to think of innovative ways to address family law rather than work on the traditional model.

I suspect Professor Bala probably has more insightful comments.

The Chair: Professor Bala, go ahead.

Prof. Nicholas Bala: Mr. Callaghan certainly hit many of the major points that unified family courts will help address, namely, issues related to self-represented litigants and access to justice. They are certainly not a total solution, but will only improve the position of self-represented litigants.

As pointed out by Mr. Callaghan, it will mean that for every litigant, whether they have a lawyer or not, the legal process will be more efficient and hence more accessible. The fact that there will be specialist judges will lead to faster resolution of cases and more emphasis on settlement of cases, with knowledgeable judges who can more quickly help people resolve their cases.

As he pointed out as well, a major part of having unified family courts is to have a range of services that can help resolve cases—in particular mediation, but also assessment services and parenting education services. These are more easily put into place if there's a unified family court.

For all those reasons, having unified family courts will help address the issue of self-represented litigants. However, by no means is it a total solution.

For example, one thing many of us are working on is to increase the use of what we call "limited scope services". In situations in which some people can't afford the full service of a lawyer, they would be able to get some legal advice at a reasonable price on a per hour basis, including perhaps at the courts as well as in offices.

We need changes to the family law rules and forms in every province, but certainly in Ontario as well. There needs to be an increase in availability of public information and education for people who are self-represented.

This is a complex question that will require many different kinds of responses, but unified family courts are certainly a step in the right direction.

● (1610)

The Chair: Mr. Fergus.

Mr. Greg Fergus: Professor Bala, following up on a part of what you made reference to, we all know that divorce or separation are stressful times for Canadian families. I understand that one of the benefits of the unified family courts is that the specialized judges are not only experts on legal questions but also have some training in the emotional and psychological issues that often arise in family law matters, which enable them to support the well-being of family members in a more comprehensive way.

Do you find that the presence of these specialized judges in unified family courts will benefit family law litigants and their families?

Prof. Nicholas Bala: It would be great if we had more Canadian research. That might be another part of your mission to perhaps fund research, but the research we do have, both within Canada and particularly internationally, indicates that having specialist judges results in both faster resolution and more settlements.

The settlement function of the courts, particularly unified family courts, is especially important and, again, members of the public may think that judges conduct trials, which they do. But most cases are settled as a result of discussions that go on involving not only lawyers but also judges, and this is an area where specialist judges are particularly important. They have the knowledge to help with, as you point out, both the mental health and psychological understanding of the dynamics that are going on and the knowledge to help people settle their cases a lot more quickly. This will be one of the biggest benefits of unified family courts. It's the settlement more than the trials.

The Chair: Okay, we will end that round there.

Mr. Callaghan, do you want in?

Mr. John Callaghan: All I would say is that a lot of this is concerning a fundamental change, and the fact we're here at the finance committee talking about it is a good thing. It always amazes me that we don't have public debates around family law.

If I ask how many of you around this room know someone who was convicted of a criminal offence, you are probably going to say that you don't. How many of you have been involved in significant civil litigation? Probably not. Everybody around this table has been involved in the family law system directly or through a child or a sibling or a best friend, and yet nobody talks about it. The fact that this committee, ironically a finance committee, is listening to us talk about this is most important.

This is right at the front door of every one of your constituencies. and we don't talk about it. As Professor Bala was indicating, it's going to take fundamental rethinking of some areas of the law. It's going to require resources, but it is astounding that we don't talk about it.

So, congratulations to this committee, a finance committee, of all committees, for actually talking about it.

The Chair: Thank you, Mr. Callaghan. Yes, there is substantial money involved here, which is very much needed.

Mr. Bala.

Prof. Nicholas Bala: Could I just add that I think it's very good that your committee and the government are considering these issues, which certainly have very significant economic implications. Families that are going through divorce are experiencing significant economic difficulties and place a burden on social and other services, as well as legal services. So, improving access to justice will actually have a positive effect on the economy.

● (1615)

The Chair: Thank you very much.

We will turn now to Mr. Albas.

Mr. Dan Albas (Central Okanagan—Similkameen—Nicola, CPC): Thank you, Mr. Chair.

I want to thank all of our committee witnesses for your expertise and for sharing with us a little about some of your concerns and some of your support for various aspects of the bill.

I'm going to start with Mr. Braid. Welcome back to Ottawa today, Mr. Braid.

I just want to start with some of the concerns. You said that there has been a historical separation between banking and insurance, and you say it's important to preserve that.

When I read this bill, again, a lot of it is basically Parliament delegating the authority, in this case, I believe, to the Governor in Council, to be able to put up regulations. Whether it's a minister or the Governor in Council, what that means oftentimes is that the actual meat on the bones, so to speak, comes out in regulation.

Are you and your association concerned that there is a fair bit of delegated authority here, and specifically when it comes to the following:

> (i) the carrying on of any activity referred to in subsection 410(1) that is engaged in by a financial institution, by a permitted entity as defined in subsection 449(1), if that definition were read without reference....

It continues on, and there are a number of different things they can do under this in terms of sharing information.

Is there a concern that we're leaving a bit too much to the regulations to define who these permitted entities are and what they're allowed to share?

Mr. Peter Braid: As I mentioned in my presentation, the separation of the pillars of insurance and banking is very much a Canadian advantage. It has served Canadians well. It serves our communities and our constituents well. That's one of the reasons why our financial services sector did so well through the downturn a few years ago.

It's clear to us in the writing of the legislation that the drafters are ensuring that the new fintech provisions will continue to be subject to and safeguarded by section 416 of the Bank Act, which is the section that we're most concerned about. That said, we want to be doubly certain—the devil is in the details, and the proof is in the pudding—that those protections are carried through to the drafting of the regulations; that the important separation of the pillars of banking and insurance is equally reflected, not only in the legislation, but also in the regulations; and that in the regulations, banks must still not be allowed to sell insurance at the point of grants and credit.

We will continue to watch the unfolding of the drafting of the regulations closely to ensure that those protections are carried all the way through.

Mr. Dan Albas: I'm glad to hear you say that you have confidence right now. I would hope that you would keep in connection with the committee as this process goes forward because a lot of these things, as we were saying in an earlier committee meeting today, end up going to the gazette process for comment and what not. Obviously, it would not be this committee that would be able to hear those concerns. However, I do believe it's good to continue to talk about these things.

I'll now move to the Canadian Credit Union Association.

Thank you for coming and talking a little bit about the certainty that credit unions need. Obviously, there have been a number of changes. For example, in Summerland, we have banks that have moved out, and often it's the credit union that is left to try to help out, such as the First West through its Valley First in Keremeos. Oftentimes, these rural communities only have access to that one financial institution.

As you said, there are different levels of protection. Obviously, every province has a slightly different regime when it comes to caisses populaires and credit unions. Is there a bigger value in having a voluntary code nationally where some provinces may not have gone through a process of figuring out what these codes should be, in saying, "Okay we're going to have one unified standard that all credit unions have to live up to"? Is that what you're proposing?

Ms. Athana Mentzelopoulos: That's our goal. I would point out that in Saskatchewan they have a voluntary code now, a consumer code. They have been utilizing that code for more than a decade. They have found it very beneficial, and our work is really using Saskatchewan as a starting point. However, I agree with everything that you've said. A voluntary national code will be a great benefit.

● (1620)

Mr. Dan Albas: With regard to the use of the banking terminology, this will give credit unions the safety to be able to continue to say, "We offer online banking services." Is that correct?

Ms. Athana Mentzelopoulos: I'm sitting here reflecting on your characterization of regulations, the meat on the bones. That's what we're concerned about. As it stands now, yes, the wording of the legislation would allow them to do that. We don't think there need to be regulations to satisfy the disclosure requirements, but if it does come to a regulatory approach, what we want to do is ensure that we don't end up sort of back where we started on banking terminology.

Mr. Dan Albas: Is that because of a governance function where you have.... Obviously, the Minister of Finance has brought this forward, but the Bank Act and many of its provisions end up being enforced by OSFI, the Office of the Superintendent of Financial Institutions. Are you worried that it may reinterpret certain parts of that differently from what the government has proposed here, or what we all think the government has proposed here?

Ms. Athana Mentzelopoulos: I think we are worried that there could be regulation that allows for that. What they want by disclosure is to make sure that the credit union sector is appropriately communicating to the public who regulates and who provides deposit insurance. There are myriad ways that credit unions do that now. It is entirely possible to standardize that through a voluntary approach and to avoid any more prescriptive approaches that could otherwise be taken.

Mr. Dan Albas: Okay, so the CCUA is willing to do that and to work with OSFI and other people. That's good.

I want to take this moment to thank Mr. Sorbara as well as Alexandre Boulerice for their continued support of the all-party credit union caucus. I just received a letter from the Minister of Finance today, Mr. Chair, outlining that this bill would provide the certainty that's necessary. It's nice to hear it, not just from the government, but from those who would be affected the most by it. We certainly appreciate your ongoing work to ensure that credit unions are strong and stable, and also available right across the country.

The Chair: Thank you. We're always happy when you're happy with a letter from the Minister of Finance, Dan.

Mr. Dan Albas: It doesn't happen all the time, but today I was happy.

The Chair: No. That's true. Thank you for that.

Turning then to Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault (Sherbrooke, NDP): Thank you, Mr. Chair.

Thank you for being here with us today.

My question is addressed to Ms. Wilson and is about health care and the application of the Canada Health Act. Witnesses we heard earlier—they were officials from Health Canada and Finance Canada, if memory serves—told us that the bill authorizes the provinces to be reimbursed for funds that were withheld. However, we now hear that that was already being done. You described a scenario that demonstrated that.

Could you remind the committee about when this happened? I'm wondering why we are studying this procedure if it is already being applied. If you could describe a specific case, I would appreciate that.

[*English*]

Ms. Amanda Wilson: From our understanding, it happened recently with Quebec. I think it was in 2016. There was around $9 million withheld from the transfer. Following the introduction of legislation to disallow user fees, Quebec was reimbursed that money.

If you look at Health Canada data going back the past 15 years, there are a few other individual cases where much smaller amounts have been reimbursed. Whether or not it's something that's been informally within the purview of Health Canada—with this legislation being an attempt to formalize that and provide consistency across the board—you would have to ask Health Canada if there is a need to formalize a practice that's already happening on an informal basis. Certainly we see this as a positive step, if provinces or territories are not complying. Once they have already crossed that line, it gives them an added incentive to come back into the fold. There have been some cases where the money has already been reimbursed.

[*Translation*]

Mr. Pierre-Luc Dusseault: Perhaps we can get back to it. It's rather curious because the Health Canada representative—I've forgotten her name, but we can check it in the committee "blues"—seemed to say that it was impossible.

As you pointed out, it's good that we have a Canada Health Act, but it needs to be applied. However, that does not seem to be the case in all situations.

In your opinion, is this an issue that is not dealt with correctly in the current bill, but needs to be?

In all cases and situations, the law needs to be applied. Do you think there are at this time situations where it is not being enforced?

● (1625)

[*English*]

Ms. Amanda Wilson: Yes. I think there are two parts to that. Part of it is that this bill relates to the budget. There are probably other provisions that would relate to Health Canada on non-budgetary matters.

I think part of the challenge is that Health Canada is relying on the provinces and the territories to give them information about non-compliance. They are supposed to report the dollar amount of user fees or extra billing that has been occurring in their province. Oftentimes that information isn't as detailed perhaps as we would like. There are figures that are not available, or sometimes there are questions as to whether or not that's an adequate picture of what's happening across the provinces and territories.

Health Canada, according to existing policy, does have the ability to make its own estimates. If they don't think that's an adequate picture, they are allowed to do their own estimate and impose that. But, again, to what degree that's happening every time....

Part of it is that there is a delay. Provinces are reporting on data from the previous two years, so there's a bit of a delay. Right now we see concerns around the practices in Saskatchewan, but those won't be reported until next year. There's a bit of a lag between the practices we see on the ground and the ability of Health Canada to respond.

[*Translation*]

Mr. Pierre-Luc Dusseault: I thank you, that was very interesting.

I would now like to talk about credit unions and the possibility of using the term « banking ». In your opinion, is the communication regulation too strict? Did you expect a rule to be instigated forcing you to use the terms "bank" and "banking", whereas elsewhere in your documents, it states that you are not a bank? Did you expect that? Is that acceptable in your eyes?

[*English*]

Ms. Athana Mentzelopoulos: First, it's important to say that we actually value the difference between credit unions and banks. We have not been asking to use "bank" as a proper noun. In general, the provisions in the legislation are very acceptable to us. We are happy, and I would underline that we would not have achieved what we have without the support of parliamentarians, especially in the all-party caucus.

Marc-André, do you want to add anything to that?

[*Translation*]

Mr. Marc-André Pigeon (Director, Financial Sector Policy, Canadian Credit Union Association): Not necessarily, but I'd like to point out that we mention what we are in several places.

When you become a member of a credit union, you purchase a share. That is already an indication that you are not dealing with a bank. You provide $10 or $25, which does not happen at a bank.

We already have ways of letting people know that we are not banks. We simply want to make sure that what will be in our code will respect the measures that are in place.

Mr. Pierre-Luc Dusseault: If I understood the proposed regulations, whenever you use the word "banking" in a document or prospectus, you will have to specify in the same document that you are not a bank, even if the word "banking" is used.

Mr. Marc-André Pigeon: That will come later. It will be in the regulations that will be brought in later. We would like a more voluntary approach. We would prefer to take voluntary measures ourselves rather than having rules imposed on us in the future. In the act as such, there are no indications as to communication methods.

Mr. Pierre-Luc Dusseault: So, you would prefer to put your own communication rules in place in order to inform clients properly.

[*English*]

The Chair: We'll have to end it there, Pierre, and turn to Mr. Sorbara.

Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.): Thank you, Mr. Chair, and welcome, everybody.

Obviously, I'd like to start on the credit union side—part 6, division 16, subdivision C. As chair of the all-party caucus, I worked with my colleagues from the other side, Mr. Albas and Mr. Boulerice, and many other folks for quite a period of time. We reached a point where the information contained in the BIA legislation provides certainty for credit unions to continue serving many millions of folks across the country.

My very simple question is, how important was it to the Credit Union Association and its members that that certainty be achieved?

● (1630)

Ms. Athana Mentzelopoulos: First of all, thank you again.

It saved the sector at least $80 million, and most folks figured that was a pretty conservative estimate. Had we had to implement the changes that we thought for a while were going to be required, it would have been a huge effort and extremely costly. That's the starting point.

It's more difficult to capture the value of what it could have meant from a competitive point of view, because if we had had to adopt and socialize a whole new vocabulary around financial services and tried to communicate with members and potential members on that basis, it would have been extremely expensive and undermined the sector in very significant ways.

Finally, I would say that our members met last week in Toronto at a conference, and to a person, first of all, we're grateful that the Minister of Finance and members of Parliament not only supported this but also recognized how important an issue it had been over the previous year.

Mr. Francesco Sorbara: Thank you for that. Marc-André and I had the pleasure of attending that conference and being on a panel with various members and hearing about the great goings-on, not only with our co-operative system here in Canada but also the one in the U.S., specifically the U.S. Midwest. It was great to hear; it was a great collaboration among many of us. It was just a great way to get things done. I am very pleased to have this in subdivision C, the bank terminology.

This question is for the credit unions but also for Mr. Braid.

Within the 2018 budget we listed four bullet points on modernizing the financial sector framework: flexibility for financial institutions to take investments in fintech, permitting life insurance companies to make long-term investments in infrastructure, the credit union changes, and reviewing the sunset date in the federal financial institutions statutes.

Peter, I'm in full agreement with you. I believe that separation at the point of origination should still exist. We need to maintain a competitive landscape for consumers, and it applies to credit unions. In terms of banking terminology, we need to maintain the competitive landscape.

In your view, with fintech changing the landscape every day, how should our framework change for financial institutions to adapt to what's going on in the world?

Mr. Peter Braid: Thank you, Mr. Sorbara, for your question, for your support of the broker channel, and for the separation of the pillars of insurance and banking.

The Insurance Brokers Association would support those various goals that the federal budget has set out. I think moving forward what is important is that the government find the right balance between fostering innovation on the one hand and protecting consumers on the other. Serving the best interests of consumers, protecting the consumer's best interest, is what is paramount for insurance brokers across the land.

It is really, then, about finding the balance. Insurance brokers understand that consumer demand is changing and technology is rapidly evolving, and brokers want to embrace and adopt those changes as well.

It's critical that the aspects of our current law that have served consumers so well and protected their interests be maintained as the landscape continues to evolve, including through fintech activities.

● (1635)

Mr. Francesco Sorbara: Let me stop you there. I would like to add one comment, and then I am going to switch.

Within our purview of modernizing the financial sector framework, I think we've hit on some key things. Permitting life insurance companies—the "life cos", the big four in Canada—which are sitting on hundreds of billions of dollars of investable capital and who have a long-tail risk horizon, to use that investable capital for Canadian projects is very powerful, as is looking at the fintech area.

I am going to stop on the finance side.

John, how are you? It's nice to see you.

Mr. John Callaghan: I am well, Mr. Sorbara. How are you?

Mr. Francesco Sorbara: I'm very well, thank you.

Will this investment that we're making in the unified family courts shorten the times for people and reduce their costs? For folks who are unfortunately going through that situation because of family matters, it is becoming quite burdensome and expensive, and many middle-income and low-income families just can't afford it.

Mr. John Callaghan: Yes. The hope is, and I think it is shown in the unified family courts that we have, that it will be managed better so that it is less expensive and less time-consuming.

Family law is a very emotional issue that takes a lot of resources. One of the challenges is to re-imagine somehow our family law system at some point in time, because it has taken an emotional toll. It's going to take political leaders and policy leaders such as the people in this room to make that happen.

As I say, 60% of these families are going through two courts and, if they're going without assistance, have to deal with two different ways of doing things, two separate sets of forms, two separate everything. The hope is that we will reduce time and that this change will reduce the money expenditure.

Professor Bala might be able to give you real statistics on this. I don't know.

The Chair: Professor Bala, do you want to come in?

Prof. Nicholas Bala: We don't have the kinds of statistics that we'd like. We don't even have the most basic data about family justice in Canada. However, having said that, I think it's clear from everybody who's involved in the family courts in different parts of the country.... I should say in Kingston, where I live, we have a unified family court. You go 50 miles down the road to Belleville and they don't have one. It's clear for lawyers who practise in both places that there are real cost savings to litigants as a result of having a unified family court. It's a more effective, more efficient system. Quantifying that saving is going to be very difficult, but there's no doubt that it's helpful, more efficient, more effective, and less expensive.

The Chair: Thank you, all.

Mr. Braid, FINTRAC has come up. I know that the insurance brokers didn't make a presentation before this committee on the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, for which we're doing the five-year statutory review. In fact, you mentioned FINTRAC. I think we've heard from over 80 witnesses now, but if you have any views on that, send the clerk a note. The deadline for the Department of Finance is May 18.

There are two processes. There is the committee process and the statutory five-year review, and there's the Department of Finance process as well. Our report won't be tabled until early fall, so if you have any thoughts on that as insurance brokers, just send the clerk a note, or also do the same with the Department of Finance. That's just for your information.

Mr. Peter Braid: Thank you.

The Chair: Mr. Albas.

Mr. Dan Albas: Mr. Chair, my question is for you. Which process is better, the Minister of Finance's or—

The Chair: There is no question; this one is the best in the land.

Mr. Dan Albas: That's a good answer. I'm glad we have that on the record. Hopefully that will be part of our discussion on this.

I'd like to go back to Mr. Bala just for a second.

Sir, you mentioned that there is not a unified amount of information regarding the justice system. Could you just elaborate on what you meant by that?

Prof. Nicholas Bala: We don't even know how many divorces there are a year in Canada. Because of the changes in Statistics Canada over the decades, we have much less basic statistical data now on family justice than we did in the past, let alone the kind of research that, understandably, your committee and others, and members of the public want to know. So, if we do this, what are the savings going to be, and so on? We need both a lot more statistical data, which should be obtained and, in some cases, was obtained by the government, and more broadly, we need more research on family justice.

● (1640)

Mr. John Callaghan: Sorry, I would like to add something. I just finished a report on Legal Aid and the Law Society's relationship with it. We went through a long consultation with academics, with various institutions, and what Professor Bala says was proven out. Both at the federal and provincial levels, the statistics are really not there, which is causing a real problem when you want to try to do evidence-based policy-making and try to get academics engaged in areas so they can move the dial from a social perspective.

There's something called the Institute for Clinical Evaluative Sciences, running out of Sunnybrook Hospital, which has all the OHIP data in the province of Ontario. It was seeded by the Province of Ontario, and basically runs with some funding. It is probably the number one epidemiological institute in the world at the moment. It's done by maintaining, housing, and scrubbing data, and then they get the data out to the universities. We have nothing comparable in the legal world, and it's a real problem.

When I met with the people at ICES—it's a terrible acronym, but they were there before the other ISIS—the Institute for Clinical and Evaluative Sciences, I asked them about it and they said they had one study. The study was about people with major head trauma who had been incarcerated. The incarceration data didn't come from the justice sector, it came from Correctional Service Canada. They found a correlation between someone having a major head trauma and a significant—I can't tell you the percentage—likelihood of their being incarcerated. That's social data I would have thought we would want to have, and yet the justice sector doesn't actually contribute a great deal to that discussion.

I just echo Professor Bala's comments.

Mr. Dan Albas: We have tremendous respect, obviously, for the independence of the judicial branch. Obviously, how it runs the courts is typically kept somewhat at arm's length from politicians. Where is the issue that we're not getting such data? Is it just because there's a governance gap here, where there isn't the ask or request for this, or is it just academics asking? It does sound to me like a very common sense thing that we would try to work towards.

Mr. John Callaghan: I think at one level it's purely a coordination issue—there hasn't been a coordinated effort. There is a concern that some courts don't release their data, that the amount of data that's available isn't there. One of the criticisms is that the data is not that accurate. Well, do you want to solve the data problem? Produce the data and it'll be more accurate, because people will have to account for it.

At the end of the day, it's a combination. It's not just the courts; it's other sectors, too. I'm here for the Law Society of Ontario. I'm sure someone like Professor Bala can tell you more about all the various areas where he would like to get data to further his research. We heard this same complaint...and that report, the legal aid report, was only released in January. So it's out there.

Mr. Dan Albas: Before we go to Mr. Bala, I'd just like to ask one thing. You said it's a coordination issue. Can you define that coordination issue, the players, and what the dynamic is, specifically?

Mr. John Callaghan: First of all, I think you have to have political will. So it involves the provinces. It involves the feds, because they'll have statistical data. You can't do it without the academy, because the academics are the ones who are going to do the research. Institutions like the Law Society, which probably wouldn't have a significant amount of data, can actually provide a significant facilitating role, because we can bring people together if people wish to come together.

I think it also requires some real discussion about who keeps the data. Is it kept by the government? Is it off-government? Is it kept by some institution that isn't going to appear to be manipulated? Long term, you're trying to provide evidence-based research for you, the policy-makers, but you're also trying to provide evidence-based research for the academics—not me, but the Professor-Bala types.

No disrespect, Nick, but a young Professor Bala comes in and says he wants to change the family law system and it's going to take him 25 years to get the policy-makers onside. Well, they need the data, and they need to be able to analyze it and provide back to you policy-makers that this is what's in the best interests of Canadians. If you don't provide the fertile ground for the statistics in what we have, then it's a problem. That has been a comment we heard, and I jumped on with what Professor Bala said, and what you said, which we heard most recently in our report. So I think it's all of those things.

We are trying to see, in the Ontario context, about bringing those things together. You guys play in a much bigger sandbox on the federal side, and we're trying to do that on the provincial side. But you know what? Some federal initiative, some federal leadership in this area, would probably benefit everybody.

● (1645)

The Chair: Professor Bala, you want in—you want in the sandbox.

Prof. Nicholas Bala: Yes, I know how to get attention here.

I should say that the issue of the independent judiciary is very important. Judges want this information as much or more than anybody else, and they are happy to have better data. Part of the responsibility rests with Statistics Canada, which has stopped collecting certain kinds of data. I know that, at least in part, it's because of funding issues.

Another issue has been the lack of government-supported leadership, the political will to do fundamental research about the family justice system. Mr. Callahan mentioned health research. We have one research institute in Canada that looks at family justice, the Canadian Research Institute for Law and the Family at the University of Calgary. It is in the process of being shut down because of lack of funding.

So there's not nearly enough funding for family justice research. When I'm talking about family justice, it's not something that the academics want to know. It's something that judges want to know, lawyers want to know, and parents want to know. They want to know what kind of longitudinal data we have on what is going to help families, parents, and children going through the divorce process. What is going to get better outcomes for children? We do that kind of work in the health care system. We do it in the environmental areas. We don't, however, do it in family justice, and this is a major problem.

The problem certainly has to do with more resources and more personnel. Mr. Callahan mentioned "young Professor Bala". Well, we're not even hiring family law professors. When you hire professors, you don't say you need more people to do banking law and technology law. When a family law professor dies or retires in this country, they're typically not replaced by another family law professor. So it goes up and down the line.

The Chair: That ends that round.

I'll turn to Ms. O'Connell, but I would say to the people from the Law Society that the finance committee does hold pre-budget consultations in the fall. If you have suggestions about things that Statistics Canada should be doing with respect to statistics and related to family law, then make a submission. These will be on the finance website by June, I expect, when we're holding hearings. Submit it, and I'm sure the committee would be willing to have a look at it.

Ms. O'Connell.

Ms. Jennifer O'Connell (Pickering—Uxbridge, Lib.): Thank you, Mr. Chair.

Thank you all for being here.

I'm going to start with Mr. Fogal.

In terms of the investments that are being made in this research and research facility, I know you spoke about the cost. Could you perhaps speak a little more about what these investments mean—in terms of following up on this conversation—for data and policy, specifically around climate change? I know that we've heard a lot at this committee that you really do first see the impact in the north, some of these changes in the atmosphere. How important is this research for policy-makers?

Mr. Pierre Fogal: As scientists, we'd like to think it's very important. You can't go back and measure yesterday's atmosphere, so the first question is: how long is the data record to which you're referring? We at PEARL have been measuring various atmospheric parameters since 2005. Before us, it was Environment Canada, through Astro back to 1993, and before that through the Eureka weather station back to 1947. Therefore, as you heard in the previous discussion, data is always very important. It's the only way you can know where you've been in order to judge current events and to make a prediction of where you're going. Does that answer your question?

Ms. Jennifer O'Connell: Yes. Thank you.

Could you also speak to the specific work in and around climate change, specifically around extreme weather events? Is that something that is part of the research here?

● (1650)

Mr. Pierre Fogal: We are involved primarily in measuring atmospheric composition, and that has very important impacts on both global climate change and severe weather. The ozone layer, for example, is the primary engine of the atmosphere. It is where most of the energy goes in, so understanding what it's doing is of great importance.

The severe weather aspect of it is done more by our colleagues at Environment Canada. They are in the midst of setting up a site outside of Iqaluit to help improve the predictions for blizzards, in particular, in the Arctic.

The atmosphere is one well-connected entity, if you will. Everything that effects it ends up effecting everything in it.

Ms. Jennifer O'Connell: Thank you very much. I appreciate that.

I'm going to move to the issue of family courts. This committee has had some conversations around family law and access to family courts, probably during the pre-budget consultations, but it is important.

Mr. Callaghan, you touched on the point that it really doesn't get a lot of attention. I think we've had this discussion with many of our colleagues, but on the issue of access, what I've seen a lot of times, especially in the family court system, is that women in particular, but not always.... If they're not the breadwinner in the family, access to funds in a divorce or separation can be withheld, and there really is no ability to get strong legal representation. They're completely at the whim of their ex-partner. Therefore, self-representation or some type of representation is critically important, especially when there is an imbalance in financial access. As I said, it applies particularly to women, but not always. Do you see the unification of this court system, or making it simpler, having a significant impact on those who cannot really afford to access a lawyer, or who may be at a disadvantage, at least at the very beginning of the process, until there might be some spousal support or child support given at the onset of a longer hearing or longer process?

I would ask this of either person, whoever wants to jump in.

Mr. John Callaghan: Then again, I'll defer to Professor Bala because he's studied this more than I, but the way the courts are set up, the unified family courts are supposed to be more welcoming, as it were. They're set up with support systems that would allow for either parent, or either person going through a divorce, to have more information, to have information sessions, to go through mediation, and to have a more understanding system that is supposed to address some of those issues. It doesn't just include the judges. Part of this this is about educating staff members, etc., court clerk staff members, to be able to provide information to help them.

Professor Bala mentioned the issue of limited retainers, meaning having lawyers helping for a limited period who can assist in the information stage if someone can't afford a lawyer. Ultimately, it's a system that, hopefully, with educated judges in that area, can balance those circumstances where one spouse has representation and one doesn't. That's a difficult issue because these are fairness issues. It's the biblical Solomonic task of dividing things, and the judges are going to have to do it. It's a very difficult task. The hope is that's what it is.

I suspect Professor Bala has more research to respond with than I.

The Chair: Professor Bala.

Prof. Nicholas Bala: Yes. I know that when the federal government does budgeting now, it is thinking about gender impacts, which I think is appropriate. In family justice, every law has a significant gender impact, as the questioners point out. By and large in this country, women still do more child care within intact families than in separated families. That said, each family is unique, and we're certainly seeing an increasing number of families where the woman is the primary income earner and the father is the primary child carer. Also, there is an increasing number of families where both parents are shouldering those responsibilities equally.

On the question of how to help facilitate access to judges, again, while I know it's certainly not part of what your committee is doing, I would point out that the federal government has not reformed the Divorce Act in more than 30 years. That came into force in 1986, and certainly, reforming that legislation would help fathers and mothers to deal better with separation and divorce. It's something that the federal government can and should do. A number of provinces have changed their legislation, including British Columbia, Alberta, and Nova Scotia, so I think there's certainly a big federal role there.

As Mr. Callaghan suggested, dealing with access to family justice —and it is a major social issue, as he correctly pointed out—affects more Canadians than any other set of legal issues. It's not surprising that you politicians are hearing that, not only from your constituents, but also from your families and friends. These are certainly complex sets of issues, and different parts of the system interact with each other. We have had significant improvements made to some legislation. For example around child support, which is a huge issue, the federal child support guidelines have really helped reduce the level of conflict and provide certainty in direction. We need more legislative reform, but the federal government has made important starts. Certainly funding for legal aid would be another major issue to point out, particularly for women in violent situations who need it for child support, but fathers as well.

As we mentioned, we're working now.... When I say we, those in the legal profession, judges and lawyers who have supported academics have made major changes and are undergoing change. Right now, we're setting up a project in Ontario to increase the use and understanding of limited scope retainers to help improve access to justice. That's an ongoing effort. We're going to have the support of the law society as well. People in the provincial government in particular have been taking an interest in it in Ontario, but I know that people in the federal government are taking an interest as well.

● (1655)

The Chair: Okay.

We'll have to end that round there.

We have Mr. Albas, Mr. McLeod, and then time for a short question by Mr. Dusseault, and that will sum it up.

Mr. Albas.

Mr. Dan Albas: Thank you again, Mr. Chair.

I'll start by going to Ms. Wilson from the Canadian Health Coalition.

Ms. Wilson, clauses 218 and 219 amend section 25 of the FPFAA to allow for the reimbursement of the Canada health transfer deductions to provinces and territories, provided they take certain steps to eliminate extra billing and user fees in the delivery of public health care.

Has your organization supported those provisions? I didn't quite get it from your opening statement.

Ms. Amanda Wilson: I think we're supportive of those provisions. The asterisk there is that it's only addressing one part of the picture. It's a positive step, but it's certainly not going to address everything. The challenge is that those other steps that we would like to see would not be steps within the budget, but within the Canada health transfer.

Mr. Dan Albas: If there is a formal process laid out in law...one of the things the officials said this morning was that there wasn't an ability until amendments were put forward for reimbursement in those kinds of cases. Would you agree, though, that it somewhat allows for provinces to push the rules a bit and thus gives them a way out, so to speak, if there's perhaps a practice? Would that not be creating somewhat of a moral hazard to encourage more activity that is on the borderline, or even past that line?

Ms. Amanda Wilson: Hypothetically, it's possible that provinces and territories would see this as a way to skirt the line. The reality is that we're already seeing across the board a lot of instances where they're turning a blind eye or are explicitly allowing practices outside of the Canada Health Act. It's possible, I would say, because it's already happening. I would like to think that provinces and territories are exploring those options because they feel like they don't have any other choices. If there's a way to provide added incentives to come back within the Canada Health Act, then hopefully that's a good thing.

Mr. Dan Albas: I've read the Canada Health Act a few times, and to me it's very general. It doesn't even describe what medical services are, so it allows for quite a bit of flexibility.

You probably were there, Mr. Chair, when that was debated and whatnot.

Voices: Oh, oh!

● (1700)

The Chair: No, I was not.

Voices: Oh, oh!

Mr. Dan Albas: Going back to the credit union association, the chair raised FINTRAC. Obviously, we also want to have Mr. Braid and his organization's views, if they have a submission on FINTRAC.

You've come before the committee to talk about FINTRAC, and one of the things we've been hearing often, because I've been asking this of almost every witness, is in regard to the administrative burden of the FINTRAC system. Hypothetically speaking, because I'm not sure I can convince all of the committee members to support this, if the government were to make a requirement for FINTRAC, or at least a recommendation, to start to track that administrative burden, I would imagine you wouldn't want to be lumped in with other financial institutions—not because they're not nice people, but because oftentimes....

You have the Summerland and District Credit Union, for example, which is one small branch. If you lump them in with some of the larger banks, you would not be able to use the statistics to tell whether or not there was a more proportionate burden on those smaller groups, because they could report out that in general this was how much it costs. While BMO has a tremendous amount of resources and centralization, a small credit union like Summerland and District wouldn't.

Do you have any thoughts on that? It's like I get a second chance to ask the question, and the chair has not pulled me in yet.

The Chair: It is not on the topic we're dealing with today, but the committee is dealing with it, so go ahead.

Mr. Marc-André Pigeon: I believe that in Athana's opening remarks she mentioned some of the gap. Even within the credit union system, large and small, there is a substantial gap on the regulatory burden side, and it would be amplified if we were lumped in with the banks. We would be supportive of a mechanism that carved us out of the bank category. In fact, we had discussions with Statistics Canada. They wanted to lump the federal credit unions into the bank category, and we pushed back hard against that. We'd be very supportive of anything....

We'd also be happy to share the methodology that was used to do the research. If that were something adopted by FINTRAC, it could be helpful.

Mr. Dan Albas: Lastly, I want to go back to your association, Mr. Braid, the Insurance Brokers Association of Canada. One scenario I've thought of since we chatted about this earlier today is that there may not be the ability for the consumer when they, let's say, sign up for a service through a bank, and the bank is using a permitted entity to offer, let's say, a special app that they could use to diagnose their spending habits, etc.

Are you worried, though, that there could be some sort of referral activity that is happening, where it's not necessarily a direct tie between the bank—where it's selling insurance and other products—and another entity, but there is almost like a referral? The thing is, consumers would never even know it unless they asked whether their information was shared with another entity. Do you think there are enough provisions right now to ensure that when that information is shared with a permitted entity that's where it stops? Do you think that some of these other practices might be close to crossing that traditional barrier?

Mr. Peter Braid: That's a very good question and a very good point.

We would be concerned about the scenario that you described and would want to ensure that it does not take place. Currently under section 416 of the Bank Act, a bank cannot sell insurance at the point of granting credit. In the new budget implementation bill, fintech-related provisions maintain those safeguards. As banks engage in fintech activities, or make referrals, that historic prohibition on the bank from selling insurance at the point of granting credit must be maintained, whether it's through a fintech, through a referral, through an app, whatever the situation may be.

It's quite likely that a person or an entity may try, either on purpose or accidentally, and we need to prevent that from occurring.

The Chair: Thank you all. Mr. McLeod, you have five minutes.

Mr. Michael McLeod (Northwest Territories, Lib.): My first question is for Mr. Fogal, regarding the research station and the unique research that his organization does. I think it has provided a lot of good information over the years on ozone depletion and the thawing arctic conditions.

Now that the Canadian High Arctic Research Station has been established and set up—I believe it is in Cambridge Bay—what does that mean to PEARL? Does that mean this new facility can replace the work that PEARL does?

● (1705)

Mr. Pierre Fogal: No, I don't believe so. First, there's quite a disparity in location. Cambridge Bay is at approximately 69° north; Pearl is at 80° north. That separation is equivalent to the distance from Toronto to Memphis. You wouldn't tell me that the atmosphere is the same over the two of those.

Furthermore, at this point CHARS is not doing any atmospheric work. They have, as far as I know, none in their list of science that they will be doing. There's no overlap between the two on the science front.

In the Canadian Network of Northern Research Operators, here are something like 77 different research locations across the Arctic. The Canadian Arctic is a very large place, and no one station is going to take up the work of all the others.

No, I don't believe so, at all.

Mr. Michael McLeod: CHARS is not doing the same research, but they're not using the same type of instruments as your organization, PEARL, does.

Mr. Pierre Fogal: No. We have a very advanced group of instruments. In fact, in the Arctic we use the same lab quality instruments that the top research labs in atmospheric science around the world use. We're as close to the cutting edge as we can be on that. I don't think CHARS is going to have any of those.

Mr. Michael McLeod: What does it mean if there is an end to the funding for your organization? What will it mean to science and to information for everybody else?

Mr. Pierre Fogal: We're really the only lab outfitted the way we are that far north in the world. There are a couple of labs that are further north, one of them in Alert, but really there's nothing else in the world that does the level of work that we do.

We lose sight of what's happening inside the polar vortex, for example, which visits the area over northern Ellesmere Island quite frequently. We lose sight of what happens in the depths of polar night. Eureka, being as far north as it is, means that we are without sunlight from October 20 to February 20, and there are very few stations that measure through the polar night, so all of those mechanisms would then not be studied by very many people, if anyone.

We are fairly unique in the things that we do. We also provide a very good location for satellite validation, so all of the instruments that are on satellites that look down at the atmosphere are compared to ground instruments fairly often. Eureka has a lot of satellites overpassing our instruments, which makes for a good comparison.

Mr. Michael McLeod: Thank you.

My next question is for the Law Society of Ontario, and John Callaghan.

I had to smile when you said that most people here have never or don't know anybody who has committed a criminal offence.

Mr. John Callaghan: Committed.

Mr. Michael McLeod: I probably know 50% of the people in my riding who are in jail, and probably 80% of those are indigenous, so maybe I'm the exception to the rule.

I was very curious. You talked about the research, and you talked about the system being very complex and confusing. I hear that from the family organizations in my riding, in terms of the backlog and the challenges of going through the system. They talk about having somebody to try to steer them through, having a guide to help them move through the system. They're in stressful situations to start with, and then the system is foreign to them, especially for some of the indigenous people who live in small communities. They're not used to the court system. They're scared of the police. They're scared of a lot of the people who are working in the system, and there's not a lot of support.

Would you recommend or would you say that we should be looking at having somebody who could help them manoeuvre through the civil courts and family courts?

● (1710)

Mr. John Callaghan: Undoubtedly. That's one thing the unified family court is trying to do. It's trying to have staff members who can help guide them through and hold information sessions. That's so important.

It's so foreign, not just to the indigenous population but to everybody, to go to a court. A court's not where people want to end up. It's a very stressful time. The idea of the unified family court is that we would get specialized clerks and people who are doing just that kind of work, who can explain how to fill out the forms. Still, there's a lot of work to be done.

The procedure in courts can be complex. Professor Bala mentioned streamlining our rules of civil procedure, those court rules that are designed by lawyers for lawyers. Now we have to design those for people who aren't lawyers so that they can have access. Part of it is whether, and in some instances how, we can resolve these, short of having a litigious process. Indigenous communities have a lot to offer on that kind of idea, everything from custom adoption to—

Mr. Michael McLeod: That leads me to my next question. There are a lot of challenges when it comes to indigenous traditions, indigenous customs. With regard to custom adoption, for example, I'm starting to see more and more instances where the court stumbles on dealing with indigenous issues. Do you think there should be a mechanism to improve the situation? If there is, what kinds of recommendations would you...?

Mr. John Callaghan: You won't believe this, but in 1986 I clerked at a court in the Northwest Territories and wrote a paper on custom adoption. For those who don't know what that is, it is the indigenous way of dealing with the adoption of children outside of the formalized process of the courts. Judge Sissons in the north, who was the first judge in the north—he was a white man's judge, if I can put it that way—recognized custom adoption. They've done it for years. I can't tell what the state of play is. I often get calls from the Northwest Territories about it.

I can't tell you all the roles that customs play, but there are other ways to do things, and thought has to be given to those ways. As you know, the idea of custom adoption is one area where they stepped outside the system because the system couldn't address the way people in the north dealt with adoptions, yet it was wholly in the interests of the child, wholly met the interests of the child. Forms weren't filled out, etc.

There's a lot to be learned. I can't tell you what lessons we should be taking out of that, but it's worth examining.

Mr. Michael McLeod: It's something we should look at.

Mr. John Callaghan: Yes.

Professor Bala has his hand up.

The Chair: Okay. You'll have to be fairly short, Professor Bala, because the bells are going to ring in about 30 seconds, and we have one more question.

Prof. Nicholas Bala: I think the issue of cultural competency of lawyers and judges is a very important one. We have a very plural and complex society. The complexities of society on the financial side, the economic side, the family side with regard to family relations, and the child's side are reflected in the family justice system. It needs resources to be able to resolve disputes, primarily outside of the trial process. We are doing and need to do more to move people through into non-adversarial dispute resolution.

Unified family courts have an important role in that. The judges we have, who are experienced specialists, really focus on trying to help people settle. Also, as Mr. Callaghan said, we need mediators. We need parenting educators. We need court workers around the justice system who can help resolve cases outside the courts as well as inside the courts.

The Chair: Thank you.

It should be noted that Mr. McLeod's riding is Northwest Territories.

Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you.

I'm going to put a brief question to Mr. Braid. I am happy to see you here again as a witness.

Something in Bill C-74 concerned me when I read it. It says:

[*English*]

> permit life companies, fraternal benefit societies and insurance holding companies to make long-term investments in permitted infrastructure entities to obtain predictable returns under the Insurance Companies Act

I was wondering if you had anything to say on this particular clause of the bill.

● (1715)

Mr. Peter Braid: This particular provision of the budget implementation act doesn't directly impact the broker channel.

That said, it's difficult for me to answer without putting on my previous hat as parliamentary secretary for infrastructure. I know that insurance companies and the insurance sector would welcome this change. They wish to invest in infrastructure projects here in this country, and that helps to contribute to the strength and the stability of the insurance sector.

Mr. Pierre-Luc Dusseault: From a client perspective, do insurance companies getting into investment worry you? It's not always profitable, in some instances.

Mr. Peter Braid: It does not directly worry me, and it would not worry insurance brokers.

Insurance brokers are focused on serving their clients. They place business with their clients from a range of insurance companies. Insurance companies as they grow, I believe, would be looking for places to invest their capital. I suspect that OSFI would continue to look very closely at the capital requirements of insurance companies.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you.

[*English*]

The Chair: With that, I'd like to thank all of the witnesses for their presentations this afternoon and for appearing before the committee.

For the committee's interest, we will reconvene tonight at 6:30 in 253 Centre Block.

I thank the committee for their endurance today.

Thank you as well to the people here by video conference.

The meeting is adjourned.

Published under the authority of the Speaker of the House of Commons

SPEAKER'S PERMISSION

The proceedings of the House of Commons and its Committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its Committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the House of Commons website at the following address: http://www.ourcommons.ca

Publié en conformité de l'autorité du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

Les délibérations de la Chambre des communes et de ses comités sont mises à la disposition du public pour mieux le renseigner. La Chambre conserve néanmoins son privilège parlementaire de contrôler la publication et la diffusion des délibérations et elle possède tous les droits d'auteur sur celles-ci.

Il est permis de reproduire les délibérations de la Chambre et de ses comités, en tout ou en partie, sur n'importe quel support, pourvu que la reproduction soit exacte et qu'elle ne soit pas présentée comme version officielle. Il n'est toutefois pas permis de reproduire, de distribuer ou d'utiliser les délibérations à des fins commerciales visant la réalisation d'un profit financier. Toute reproduction ou utilisation non permise ou non formellement autorisée peut être considérée comme une violation du droit d'auteur aux termes de la *Loi sur le droit d'auteur*. Une autorisation formelle peut être obtenue sur présentation d'une demande écrite au Bureau du Président de la Chambre.

La reproduction conforme à la présente permission ne constitue pas une publication sous l'autorité de la Chambre. Le privilège absolu qui s'applique aux délibérations de la Chambre ne s'étend pas aux reproductions permises. Lorsqu'une reproduction comprend des mémoires présentés à un comité de la Chambre, il peut être nécessaire d'obtenir de leurs auteurs l'autorisation de les reproduire, conformément à la *Loi sur le droit d'auteur*.

La présente permission ne porte pas atteinte aux privilèges, pouvoirs, immunités et droits de la Chambre et de ses comités. Il est entendu que cette permission ne touche pas l'interdiction de contester ou de mettre en cause les délibérations de la Chambre devant les tribunaux ou autrement. La Chambre conserve le droit et le privilège de déclarer l'utilisateur coupable d'outrage au Parlement lorsque la reproduction ou l'utilisation n'est pas conforme à la présente permission.

Aussi disponible sur le site Web de la Chambre des communes à l'adresse suivante : http://www.noscommunes.ca